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## **Respuesta de AngloGold Ashanti Colombia al reporte denominado 'Democracia vale más que oro: El proyecto minero La Colosa y el derecho ciudadano a la participación' de PAX**

### **1. Nuestro compromiso con los Derechos Humanos**

AngloGold Ashanti Colombia (AGAC) promueve y respeta los derechos humanos. En nuestros valores estamos comprometidos con tratar a los demás con dignidad y respeto, lo cual incluye el respeto por los DDHH y nuestro compromiso de operar bajo los más altos estándares en términos de conducta empresarial responsable. Desde hace mucho años somos miembros activos de iniciativas

For many years, we have been an active member of various sector-specific initiatives in Business and Human Rights, including the Voluntary Principles on Security and Human Rights (implemented in Colombia through the Colombian Mining and Energy Committee on Security and Human Rights (CME), of which we are a member), the Extractive Industries Transparency Initiative (EITI), and the International Council on Mining and Metals (ICMM). Our commitment to human rights is furthermore evidenced through our continued membership of the UN Global Compact, and the alignment of our environmental policies and policies for community engagement with the standards of the International Finance Corporation (IFC). Moreover, we promote the UN Guiding Principles on Business and Human Rights and support the High Presidential Advisor for Human Rights in the implementation of the National Action Plan on Business and Human Rights.

Our commitment, from the most senior levels in the company, across the board, is made concrete in solid policies and standards, including a specific Human Rights Policy, and a Human Rights Due Diligence System in Colombia. This system includes a human rights risk and impact assessment, a grievance mechanism aligned with the UNGPs, and training in human rights.

### **2. Background of AngloGold Ashanti Colombia and PAX**

AGAC and PAX have a longstanding history of engagement as active members of the Voluntary Principles Initiative. In May 2011, AGAC and PAX, agreed that PAX would undertake a Risk Assessment of AGAC's La Colosa project in Cajamarca, Tolima (Colombia), as part a of Human Rights Due Diligence System for La Colosa. The objective of the exercise was to identify security and human rights-related risks that could be associated with the exploration phase of the La Colosa project, resulting in concrete recommendations to the company. In this process, conflict resolution NGO Search for Common Ground acted as a



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validator in the exercise, and the Government of Colombia, headed by the High Presidential Advisor for Public Safety, acted as a guarantor.

In August 2016, we received PAX' kind invitation to comment on their most recent report on the La Colosa project, 'Democracy is worth more than gold'. We closely read the report, and replied to PAX with an extensive list of recommendations. PAX subsequently thanked us for our comments, and stated they had *"incorporated [our] factual remarks, and adopted or added the most relevant points of view that [we] found erroneous or missing."* Upon reading the final version of the report, however, we resented to find that PAX had in fact incorporated hardly any of our recommendations. As a reputable NGO, PAX pretends to want to maintain an open dialogue with the company, but by completely ignoring our evidence-based comments, we believe the organization has not responded adequately to our challenges to their accusations. Furthermore, we resent that PAX did not invite AGAC to the launch of their report in Cajamarca and Ibaguá on October 19 and 20.

In this response, we will contest PAX' accusations, as we did in the comments we sent to PAX in August 2016, providing evidence of our efforts to implement the recommendations and put our respect for human rights into practice and indicating where the NGO has failed to adequately incorporate our considerations.

### **3. Citizen participation and the right to information**

The central axis of the report is local communities' participation in decision-making on issues that are of significant importance to their future, such as mining. As a mining company committed to respecting human rights, we fully agree with PAX that clear, accurate and timely information is needed for citizens to ensure well-informed citizen participation. AGAC therefore promotes numerous spaces and information tools, including one-on-one conversations with communities, community contact points in the municipalities of each of our projects, permanent socialization sessions, project visits with community leaders, information campaigns in local media, and delivery of materials for the population, among others. This way, we aim to keep the community informed on the progress of the project, on where we invest, with whom, and how. Not only is this a promotion of citizens' right to information, but also a means of strengthening our transparency and public accountability, which is our duty as a committed member of the international initiatives mentioned in the introduction of this statement.

PAX' report questions AGAC's commitment in this respect. On page 7, it refers to its *"recommendations [that] revolved around information provision to the population and the company's communication strategy and community relations policies ... [and] measures to reduce or prevent social tensions and the polarization in the region, and the investment in the establishment of a relationship of trust between the company and the community"*, and



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accuses AGAC of not having responded to these calls seriously. However, there is ample evidence of our efforts to implement these recommendations, working with the community and other stakeholders on a daily basis to promote the population's right to information.

- From 2013 to date, we have given 716 presentations to various social groups in Cajamarca. In addition, since 2013, we have conducted 416 personalized socialization sessions with members of the community of Cajamarca;
- 1,218 people have made guided visits to the project since 2013 with executives from different areas;
- We perform project progress information activities with our contractors and suppliers. To date, we have reached 312 people;
- We have 2,042 followers on Facebook and 30,000 views on our YouTube Channel;
- We have a 4-page printed news bulletin with 4 editions annually, of which 10,000 printouts are distributed among the population;
- We have a television program that airs on Cajamarca's local channel Coovision twice a week. This service has 1,100 subscribers;
- We send information on our project to different media, including the written press, radio, television, and internet portals; and
- We keep local, regional, and national authorities informed of developments in our project.

Furthermore, in 2014 we created a Community Contact Point in Cajamarca, as a space of information provision to community members. The Community Contact Point also receives communications of all kinds and refers these to the relevant employees. In line with our commitment to the third pillar of the UNGPs, La Colosa has a grievance mechanism that is activated when the Community Contact Point receives a complaint or claim reaches, under the definition of AGAC's Corporate Incident Classification Standard.

In terms of community relations policies, AGAC has a Human Rights Policy, issued on 5 August 2013, and a Community and Environmental Policy, issued on 6 January 2009, which is complemented by a Community Engagement Standard, a Land Access and Resettlement Standard, a Socio-Economic Contribution Standard, and a Community Grievance Standard (see attachments).

It is clear, then, that our commitment to Human Rights and UNGP is accompanied by solid strategies with tangible results that truly contribute to citizens' right to information and participation.

The report 'Democracy is worth more than gold' takes a narrow perspective on citizen participation, as it only looks at the popular consultation mechanism. We consider it inappropriate that a reputable NGO with an extensive track record of work in human rights



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would plead for citizen participation focusing on a particular project and a particular mechanism for citizen participation.

In the report, PAX presents a one-sided version of the legal discussion on the use of the popular consultation mechanism in decision-making on mining, which contains various legal inaccuracies. This particularly concerns the scope of Ruling C-273 of 2016 of the Colombian Constitutional Court. We pointed this out to PAX in our response of 25 August 2016, and provided them with an analysis of the Colombian legislation in force with respect to the topic by law firm Esguerra Asesores Jurídicos (see annex), in order to help them correct and strengthen the legal dimension of their report. Unfortunately, it is clear that PAX has ignored this gesture, as they have failed to make any amendments at all in discussion of the legal foundation for the popular consultations on mining.

Another problem PAX fails to discuss is the type of question that is used in the popular consultations, mentioned on pages 49 and 63-64 of the report. Asking citizens whether or not they agree with the contamination of their living environment, as these questions do, is misleading and induces a singular response, as such not allowing communities to truly decide whether or not they agree with our project in their municipality. Our point of view is supported by Ruling T-445 of 2016 of the Colombian Constitutional Court, issued on 19 August 2016, which states that the question of a popular consultation should be neutral and may not induce a particular response, as this compromises the freedom of the voter. The questions used in Piedras, Ibagué, Cajamarca, El Espinal, and Pijao, as discussed in PAX' report, clearly induce a 'no' response, and are therefore unconstitutional. These legal developments were followed by a ruling by the Council of State, Colombia's highest court in administrative matters, which, on 12 October 2016, suspended the popular consultation that was due to take place in Ibagué at the end of the month. These two rulings came out after PAX published the report, so are not included in their analysis, but are clearly vital to a full understanding of the discussion.

#### **4. The State and Armed Forces**

Page 41 and 42 of the report discuss our relationship with Colombia's public armed forces. With respect to this section, we would like to make some clarifications and explanations, which we made to PAX in our response of 25 August 2016, but which they failed to include.

We indeed have a relationship with the Colombian Army and the police, but the implications PAX draws in its report are based on thin air. Since 2007, the company has signed a total of 25 MoUs (Memorandum of Understanding) with the Ministry of Defense, which have a duration of one year. The number of MoUs varies depending on the number of projects of the company in the exploration phase. It is important to stress that the contributions



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provided for in the agreements are regulated and cannot be used for the purchase of materials or equipment of a lethal nature.

It is important for AGA to be transparent and share information. However, as the Ministry of Defense has decided to include a non-disclosure clause in these agreements, we are not able to publish the content of the agreements. Nevertheless, we would like to emphasize that these agreements contain a specific clause that requires the army to ensure respect for human rights of the inhabitants of the area where they perform security tasks and, consequently, no actions or behaviors that may violate these rights are going to take place therein.

On page 41, PAX states that *"the little information about this agreement ... indicates that it was signed before 2007."* This information is outright erroneous, as the first MoU was signed in 2007, and PAX does not indicate on the basis of what evidence it makes this false statement. They furthermore state that *"local inhabitants are concerned about the fact that AGAC security personnel and the army share perceptions and opinions about people, which could put them at risk of stigmatization and violence."* We can only reiterate that the MoU contains a specific human rights clause, in line with the Voluntary Principles on Security and Human Rights, and that meetings between our security personnel and the army have the objective of improving the security and human rights situation around our project, not to exchange perceptions and opinions of civil society.

Nevertheless, as fellow members of the Voluntary Principles Initiative, we consider it important to address these concerns in a cooperative manner. We therefore welcome working with PAX and other organizations towards clarifying and mitigating these concerns, on the basis of the recommendations of the CME.

## **5. Implied link arrival AGAC and presence Armed Forces**

The discussion of the supposed presence of paramilitary and guerrilla groups around the La Colosa project, on pages 16 to 19, is inconsistent. It alternates arbitrarily from departmental level to municipal level to project level, and provides a lot of general historical information that has nothing to do with our project. Nevertheless, by presenting the information in this way, the report implies that it does, which we find unacceptable.

On page 17, PAX for instance states: *"In 2000, in the middle of the armed conflict, AGAC arrived to Central Tolima, in order to conduct its first explorations and in 2002 it obtained its first mining titles. Since then, Cajamarca has had a permanent presence of the National Army and police forces of 120 men."* However, the reality was not at all the way the report tries to depict it. The Colombian Army has the constitutional obligation to protect the civil population and the territory, which was the reason for its presence in the region *before,*



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during and after AGAC's greenfield explorations. This has nothing to do with our exploration activities, but with the presence of illegal armed groups in the region in the context of the Colombian armed conflict. It is not true that the presence of armed forces in the region coincides with our arrival, as they were already present regardless of our exploration activities.

By presenting information in a suggestive manner, PAX implies a link between the arrival of AGAC and the presence of armed forces in the region, which is grave, false and unfounded.

## 6. Threats against the community and stigmatization

On pages 18 and 19 of the report, it refers to threats against the civil population by illegal armed groups and that "*these facts were reported to the Office of the Attorney General.*" A fact the report does not mention is that it was AGAC who reported these incidents in first instance. Within the framework of respect for human rights, we have always rejected and immediately reported any threat to the life and security of any person arising as a direct or indirect consequence of the company's operation in the area of influence. We do so through the activation of our Human Rights Protocol, by means of which the report is submitted to the Office of the Attorney General, and copies are submitted to national, regional and local authorities with competence in human rights issues, such as the Human Rights Ombudsman and the Prosecutor General.

We have been the first to report and reject any kind of threat, not only against people who oppose mining activities, but also against employees, contractors and suppliers of the company who have been intimidated, bullied and threatened on several occasions. An example of this is the activation of our Human Rights Protocol in November 2014 when, through a pamphlet of the Cajamarca Unit of the Adán Izquierdo Central Command of the FARC, community leaders of the municipality, explicitly including AGAC employee Dairo Carranza, were urged to voluntarily abandon any support for the work of AGAC, or else they would be forced to do so by coercive methods.

On numerous occasions, the report refers to the stigmatization of opponents to the project. In this regard, we reject any involvement claimed by reports against us related to stigmatization. Some community members are opponents to the mining project, others consider it a positive development for the region, and again others do not express an opinion in this regard. We owe all these people our respect.

The number of employees, contractors and suppliers of AGAC in Cajamarca and Ibagué who have been victims of stigmatization as a result of their favorable position towards the mining project is even higher. Employees have been attacked on social networks, the children of employees and contractors have been victims of bullying because their parents



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work for AGAC, and others have been insulted on the streets. In our response to PAX of 25 August 2016, we suggested the report would also include these stigmatization and threats, as we expect a human rights NGO such as PAX to equally care about the violations of the rights of people who support our project. However, PAX failed to include this information in its report.

## 7. Other inaccuracies and false accusations

On page 6 and page 46, the report states that PAX supervised the visit of civil society leaders to mining projects in Peru and Brazil. It fails to mention that AGAC in fact invited them and opened the doors of two of its mines in Brazil. Furthermore, PAX fails to include the fact that AGAC has funded various visits of journalists, community members and government representatives to our mines in Brazil, as part of our commitment to provide stakeholder with thorough information.

On page 7, the report states that *"in the local context, the behavior of the company AGAC created an increase of the existing polarization between supporters and opponents of the project."* We share the observation that such polarization exists, but deny that our behavior has affected this. PAX' statement is, again, not supported by any evidence or analysis of why they consider this to be the case.

On page 14, PAX claims that the decision of the "Ministry" (we assume they refer to the Ministry of the Environment and Sustainable Development) to lift the exploration restriction on 6.39 ha of forest reserve *"was not communicated to the population, neither by environmental authorities nor by the company, which caused incomprehension and indignation among social movements."* We simply want to clarify the process behind the lifting of the exploration restriction, as the PAX report makes it look like a mysterious decision, which it was not. In 2007, AGAC started its exploration activities in the La Colosa area. As the mining titles of the project are within the central forest reserve, established by Law 2 of 1959 before the former Ministry of Environment, Housing and Territorial Development, we made all inquiries to obtain the required exemption permit. Back then, the terms of reference published by MADVT for the preparation of the exemption studies only required this study for the exploitation stage. However, Cortolima preventively suspended our activities by means of Resolution 205 of 21 February 2008, until the exemption permit for the area corresponding to the central forest reserve was granted. AGAC underwent the relevant formalities before MADVT and was granted partial and temporary subtraction of a 6.39 ha area from the central forest reserve pursuant to Resolution 814 of 4 May 2009. Based on this exemption, some formalities were completed before Cortolima, so it would lift the preventive measure imposed on AGAC as per Resolution 300 of 4 February 2010. In other words, the decision was not taken without any explanation whatsoever but based on the information provided by the company and after undergoing the formalities legally required.





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Moreover, as is clear from the information submitted, Cortolima was notified of all AGAC's processes.

On page 16, the report refers to our letter of 25 August 2016, stating that we aim to complete the exploration phase in 2019. We did not say this. Our letter can be found [here](#).

On page 23, PAX negatively describes our television program on Cajamarca's local channel Coovision and our information in the media as propaganda. These statements distort our successful way of keeping the community informed on our work, as we should, and presents it as a negative practice.

#### [Aclarar p. 24-25: historia Corsae-Aprominca]

On page 26 of the report, PAX accuses AGAC of using investments in the public sector as a means of retaliation. We strongly reject that our investments have any kind of retaliatory function. Our many social investments, in cooperation with the Mayor's Office and the community, have a very positive impact on the development of Cajamarca, as they have significantly improved medical services and public facilities in the municipality, among others.

On page 26 and 28 PAX describes our legal action in response to a violation of our workers' rights as "*judicial pressure*" and "*an attempt to intimidate local officials so they would not support protests of the community.*" We strongly disagree with this depiction. Indeed, AGAC did initiate criminal and disciplinary action against the Director and the Head of the Legal Office of Cortolima. The reason for this was that the resolution they issued in a case of AGAC contained unlawful elements. AGAC always promotes legality and acts under national laws at all times. Not only do we have the right, but also the duty to report when we observe that the law is being infringed. The duty to report cannot and must not be considered a form of judicial pressure, which is what PAX accuses us of. We clarified this to PAX in our response of 25 August 2016, but they failed to take this comment into account in the final version of the report, neither on page 26 nor on page 37.

## 8. Conclusion

We will continue to put our respect for human rights into practice by working hand in hand with the communities and local authorities around our La Colosa project. We remain committed to providing clear, accurate and timely information, in order to make sure that citizens can participate and comment on the future they want to build in a well-informed manner, and in accordance with national and international law. PAX concludes on page 54 that, in the development of the La Colosa project, AGAC "*restricts citizen participation at the local level*", but we reject this and reiterate our agreement with PAX that citizen





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participation and the right to information are essential to the development of our project in harmony with the community.

We deeply regret PAX' unwillingness to constructively include our commentary and corrections into its report, and think the many inaccuracies and false accusations heavily compromise the credibility of the report. We thank the Business and Human Rights Resource Centre for allowing us to provide clarifications and corrections.

Our Human Rights and Strategic Projects Management, created in May 2016 and headed by Maria Calero Leiva ([mcalero@AngloGoldAshanti.com](mailto:mcalero@AngloGoldAshanti.com)), will further strengthen our effort to implement our Human Rights Due Diligence System across the board in our company. We will also continue to engage with all stakeholders, including PAX, and aspire to maintaining a constructive dialogue with all.